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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

TRUCK INSURANCE EXCHANGE, A/S/O LV
PETROLEUM, LLC, a Nevada limited liability
company,

Plaintiff,

VS.

XERXES CORPORATION, a Delaware corporation; WESTEST INCORPORATED, an Arizona corporation; DOES 1 through 10; and ROE CORPORATIONS 1 through 10,

Defendants.

Case No. 2:17-cv-00950-JAD-PAL

**STIPULATION BETWEEN
PLAINTIFF AND XERXES
CORPORATION TO REMAND TO
STATE COURT**

ECF No. 8

XERES CORPORATION, a Delaware corporation;

Cross-Claimant,

WESTEST INCORPORATED, an Arizona corporation,

Cross-Defendants.

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1 Plaintiff Truck Insurance Exchange, as Subrogee of LV Petroleum, LLC (“Plaintiff”), by
2 and through its counsel of record, Robert S. Qualey, Esq. and Cybill L. Dotson, Esq. of Qualey
3 Law Group, and Defendant Xerxes Corporation (“Xerxes”), by and through its counsel for record,
4 Robert S. Larsen, Esq. and Rachel L. Wise, of Gordon Rees Scully Mansukhani, LLP, hereby
5 stipulate and agree as follows:

6 1. On January 24, 2017, Plaintiff commenced the action *Truck Insurance Exchange,*
7 *A/S/O LV Petroleum, LLC, v. Xerxes Corporation, Westest Incorporated*, Case No.: A-17-
8 750000-C in Department XXVIII of the Eighth Judicial District Court in and for Clark County
9 (the “State Court Action”).

10 2. The State Court Action alleged Plaintiff, Truck Insurance Exchange and LV
11 Petroleum were both citizens of the State of Nevada. (ECF No. 1 at Ex. A ¶ 1).

12 3. Xerxes is a citizen of Delaware and with its principal place of business in
13 Minnesota. 28 U.S.C. § 1332(c). (ECF No. 1 ¶ 15, 16).

14 4. On April 4, 2017, Xerxes filed a notice of removal of the State Court Action
15 pursuant to 28 U.S.C. §§ 1132 and 1441 (“Notice of Removal”) with the United States District
16 Court, District of Nevada (ECF No. 1), removing the State Court Action to this Court as Case
17 No.: 2:17-cv-00950-JAD-PAL.

18 5. After Xerxes filed the Notice of Removal with this Court, Xerxes discovered
19 additional information that suggested diversity jurisdiction does not exist.

20 6. On May 2, 2017, Plaintiff informed Xerxes that Truck Insurance Exchange
21 operates as an unincorporated entity with insurance policy holders in Nevada, Delaware,
22 Minnesota, and Arizona.

23 7. Based upon this new information, the parties believe that diversity of citizenship
24 between the parties does not exist in this action.

25 8. The Parties hereby agree and stipulate that (i) the Federal Court Action should be
26 remanded to the state court in which it was initiated; and (ii) each party shall bear its own
27 attorneys’ fees and costs under 28 U.S.C. § 1147 with respect to the removal and the subsequent

1 remand of this action pursuant to this stipulation.

2 Pursuant to the foregoing, the parties respectfully request that the Court enter the
3 Stipulated Order submitted contemporaneously herewith.

4 **IT IS SO STIPULATED.**

5 Dated: May 4, 2017.

6 **QUALEY LAW GROUP**

7 By: /s/ Cybill L. Dotson

8 Robert S. Qualey, Esq.
9 State Bar No. 3570
10 Cybill L. Dotson, Esq.
11 State Bar No. 8428
12 2320 Paseo Del Prado, B-205
13 Las Vegas, Nevada 89102
*Attorneys for Plaintiff Truck Insurance
Exchange, A/S/O LV Petroleum, LLC*

Dated: May 4, 2017.

**GORDON & REES SCULLY
MANSUKHANI, LLP**

By: /s/ Rachel L. Wise

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*Attorneys for Defendant Xerxes
Corporation*

14 **ORDER**

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16 Because it appears from the parties' stipulation [ECF No. 8] that the parties are not
17 diverse and, therefore, this court lacks jurisdiction over this action, IT IS HEREBY
18 ORDERED that **this action is REMANDED to the Eighth Judicial District Court,
Clark County, Nevada**, CASE No. A-17-750000-C, Dept. XXVIII. The Clerk of
Court is instructed to CLOSE THIS CASE.

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20 U.S. District Judge Jennifer Dorsey
21 5/8/17
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